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WASHINGTON, DC 20231
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MAR 17 2003

OFFICE OF THE DIRECTOR
TC 3600

In re application of
Scott J. Swartz et al.
Application No. 10/002,384
Filed: October 26, 2001
For: METHOD FOR MARKETING
DEMOGRAPHIC-DIRECTED
PRINTED MEDIA

DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY

This is a decision on the request filed on November 18, 2002, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

- A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
- B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and
- C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition A) and B) above.

As to condition A), there appears to be an error in the request's asking for withdrawal of attorneys associated with Customer Number 23-0920. Customer numbers are 5 digits long. What was given may have been a deposit account number. Since the original attorneys were not given power by a customer number, and attorneys associated with a firm change over time, it is suggested that any renewed request simply state that the request is being made on behalf of all attorneys of record.

As to condition B), the reason given, that the "client, Star Enterprises, has failed to pay one or more bills," is not acceptable. While non-payment of fees is a valid reason for withdrawal under 37 CFR 10.40(c)(1)(vi), there is no indication in the file record of the assignee being the "client", and responsible for payment of legal fees. Absent a 3.73(b) statement, the "client" referred to in 37 CFR 10.40 is seen as being those individuals who conferred power upon the attorneys, in this case the inventors.



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SNM/tpl: 3/7/03